

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WILBERT TURNER,

Petitioner,

-against-

MCC WARDEN,

Respondent.

20-CV-5796 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

On July 20, 2020, Petitioner Wilbert Turner, currently detained in the Metropolitan Correctional Center in New York, New York, filed a letter in the United States District Court for the Eastern District of New York, challenging his conditions of confinement. By order dated July 24, 2020, the Eastern District of New York construed Petitioner's letter as a petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 and transferred the matter to this Court. *See Turner v. MCC Warden*, No. 20-CV-3295 (PKC) (E.D.N.Y. July 24, 2020). That order noted that Petitioner's letter was received without the filing fee or a request to proceed *in forma pauperis* (IFP), that is, without prepayment of fees. The Court grants Petitioner's request to proceed *in forma pauperis* (IFP) for the limited purposes of this order. For the following reasons, the petition is dismissed.

On July 14, 2020, Petitioner filed a complaint in this Court, challenging his conditions of confinement and seeking *habeas* relief. That case is pending in this Court under docket number 20-CV-5473 (CM). Because this petition raises the same grounds for *habeas* relief as those raised in the complaint filed in this Court on July 14, 2020, no useful purpose would be served by the

litigation of this petition that raises duplicate claims for relief. This petition is therefore dismissed without prejudice to Petitioner's pending case under docket number 20-CV-5473 (CM).¹

In light of the Court's belief that Petitioner may have submitted this duplicate petition in error, the Clerk of Court shall not charge Petitioner the \$5.00 filing fee for this action, and the Warden or Superintendent having custody of Petitioner shall not deduct or encumber funds from Petitioner's prison trust account for this lawsuit.

The Clerk of Court is directed to mail a copy of this order to Petitioner and note service on the docket.

Petitioner is granted IFP status under 28 U.S.C. § 1915(a)(1) for the limited purpose of dismissing this petition without prejudice. The petition is dismissed as duplicative.

Because the petition makes no substantial showing of a denial of a constitutional right, a certificate of appealability will not issue. *See* 28 U.S.C. § 2253.

SO ORDERED.

Dated: July 27, 2020
New York, New York



COLLEEN McMAHON
Chief United States District Judge

¹ Should Petitioner wish to amend his grounds for *habeas* relief, he may seek to do so by filing an amended pleading in 20-CV-5473 (CM).